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March 12, 2025

By ECF

Hon. Taryn A. Merkl  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Fair Housing Justice Center, Inc. et al. v. Juda Niayzov et al.*,  
24-cv-04201

Dear Judge Merkl:

This firm represents the Plaintiffs in this case. I write because yet another issue has arisen with respect to Mr. Kest's compliance with his clients' discovery obligations.

On March 3, 2025, Plaintiffs noticed Mr. Zheng's deposition for April 8, 2025 (Exhibit A hereto). Now that Your Honor has for the second time denied Mr. Kest's motion to stay discovery, I asked him (and the other defense lawyers) to meet and confer about whether that date works and when they will be producing the documents necessary for that deposition to go forward. (As I have observed in my prior letters, our discovery demands were returnable on March 4, 2025, and all Defendants are in default.)

Earlier today, Mr. Kest informed me in writing that he refuses to produce Mr. Zheng until "after all Plaintiffs have been deposed" because of his supposed "priority." I promptly responded by observing that this latest gambit to avoid discovery is meritless for three reasons.

First, unlike in state court, there simply is no such thing as a deposition "priority" in federal court. *See, e.g., Saldarriaga v. Taradex, Inc.*, 2021 WL 54086, at \*1 (E.D.N.Y. Jan. 6, 2021) (holding that "there is no priority of deposition in federal court"); *see also Amley v. Sumitomo Mitsui Banking Corp.*, 2020 WL 8514825, at \*3 (S.D.N.Y. Dec. 8, 2020) ("The parties are reminded that in the absence of a stipulation or court order to the contrary, there is no priority of deposition under the Federal Rules of Civil Procedure."). Notwithstanding that I presented him with this case law, Mr. Kest doubled down in his response, citing two cases from the 1940s, and continuing to insist that this Court recognizes a "priority"

Letter to Judge Merkl  
March 12, 2025  
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that supposedly entitles him to refuse to produce his client indefinitely. He simply is wrong.

Second, even if there were a “priority” in this Court – which there is not – Mr. Kest’s purported deposition notice (Exhibit B hereto) is deficient. It is a Rule 30(b)(6) deposition notice, which only applies to organizations, and therefore could not have effectively noticed the deposition of any of the four individual Plaintiffs. Moreover, even with respect to the Fair Housing Justice Center, Mr. Kest’s purported notice does not specify a date for deposing its representative, and it is apparent that Mr. Kest has no intention of proceeding with that deposition any time soon. Surely Mr. Kest cannot refuse to produce his client indefinitely on the flimsy basis of a purported deposition notice that does not even specify a date, especially given that he apparently has no intention of taking any depositions any time soon.

Third, during the Initial Conference, Mr. Kest noted that he wishes to depose all of the Plaintiffs before producing his client, and I understood Your Honor to have questioned the wisdom of that position. If Mr. Kest is so worried about incurring the costs associated with party discovery, why would he insist on incurring those costs instead of producing the narrow Phase I documents at issue and allowing Mr. Zhang to answer questions about his role in this transaction, before the other parties are deposed?

We regret that the Court is being burdened yet again, but we respectfully submit that Mr. Kest has left Plaintiffs in an untenable position. Defense counsel should produce Phase I documents forthwith, and the parties should identify a mutually-agreeable date for deposing Mr. Zhang in April, regardless of when defense counsel may eventually decide to depose the Plaintiffs.

We thank the Court for its attention to this letter.

Respectfully submitted,



Eric Hecker

cc: All Counsel of Record (by ECF)

# EXHIBIT A

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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FAIR HOUSING JUSTICE CENTER, INC.;  
PATRICIA DELONE-FELIX; STANLEY;  
FELIX; BIANCA JONES; and ROSLYN  
SEALE,

24 Civ. 4201 (LDH) (TAM)

Plaintiffs,

v.

JUDA NIAYZOV; ALEVITINA IOFFE;  
EXCLUSIVE PROPERTIES REALTY, INC.;  
NDERIM DEMIROVIC; 202 MARINE LLC;  
XUEQIANG ZHENG; YU LI WENG; XIAN  
JIN ZHANG; and REMAX EDGE REALTY,  
LLC,

Defendants.

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**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE THAT, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Plaintiffs, by and through their attorneys, Wang Hecker LLP, will conduct the deposition of Jin Zhang on April 8, 2025 at 10:00 a.m. at the offices of Wang Hecker LLP, 305 Broadway, Suite 607, New York, New York 10007 before a notary public or other person duly qualified to administer oaths and who is not an attorney or employee of an attorney or a party. The examination shall be recorded stenographically. The deponent is hereby notified to personally appear and attend at the time and place specified above for the purposes of having his deposition taken in accordance with this notice.

DATED: New York, New York  
March 3, 2025

WANG HECKER LLP



By: \_\_\_\_\_

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# EXHIBIT B

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
FAIR HOUSING JUSTICE CENTER, INC.;  
PATRICIA DELONE-FELIX; STANLEY  
FELIX; BIANCA JONES; and ROSLYN  
SEALE,

Plaintiffs,

-against-

JUDA NIAYZOV; ALEVTINA IOFFE;  
EXCLUSIVE PROPERTIES REALTY, INC.;  
NDERIM DEMIROVIC; 202 MARINE LLC;  
XUEQIANG ZHENG; YU LI WENG; XIAN  
JIN ZHANG; and REMAX EDGE REALTY,  
LLC,

Defendants.  
----- X

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**NOTICE TO TAKE  
DEPOSITION UPON  
ORAL EXAMINATION**

**COUNSELORS**

**PLEASE TAKE NOTICE**, that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, this testimony, upon oral examination of ALL PARTIES, as parties, will be taken before a Notary Public who is not an attorney, or employee of an attorney, for any part prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity of affinity to any party herein, at the office of FURMAN KORNFELD & BRENNAN LLP, located at 88 Pine Street, 32<sup>nd</sup> Floor, New York, New York, NY 10005, on a date to be determined, with respect to evidence and material necessary in the defense of this action.

That the said person to be examined is required to produce at such examination any and all documents relative to the claims in the Plaintiff's Second Amended Complaint.

Dated: New York, New York  
January 27, 2025

FURMAN KORNFELD & BRENNAN LLP

By: /s/ Asher Kest  
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Asher Kest, Esq.  
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*and Xian Jin Zhang*  
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FKB File No.: 302.175

To: *All Parties via Email*